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Senate Bill _____
By _____

House No. HB1431
By Bowers

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 23, relative to the creation and administration of a trust fund to provide grants for shelters for the homeless.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known as the Homeless Shelter Trust Fund Act of 1995.

SECTION 2. As used in this act:

(a) "Agency" means the Tennessee Housing Development Agency.

(b) "Client funds" means all down payments, earnest money deposits or other money related to a conveyance of real estate that is received by a broker, affiliate broker, salesperson, salesperson's or time-share salesperson's principal or any other person. "Client funds" does not include promissory notes.

(c) "Depository institution" means a bank, savings bank, savings and loan association or credit union that is authorized by federal or state law to do business in this state and that is insured by the federal deposit insurance corporation or by the national credit union share insurance fund.

SECTION 3. (a) A broker, affiliate broker, salesperson, or time-share salesperson who holds client funds shall establish an interest-bearing common trust account in a depository institution. The interest-bearing common trust account shall earn interest at a rate not less than that applicable to individual accounts of the same type, size and duration and for which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law or regulation.

(b) Any broker, affiliate broker, or salesperson who maintains an interest-bearing common trust account shall do all of the following:

(1.) Register with the agency the name and address of the depository institution and the number of the interest-bearing common trust account.

(2.) Notify the agency when any of the information required under (b)(1) is changed.

(3.) Furnish the agency with a letter authorizing the agency to examine and audit the interest-bearing common trust account whenever the agency considers it necessary.

(c) A broker, affiliate broker, or salesperson shall deposit all client funds in the interest-bearing common trust account.

(d) The agency is the beneficial owner of the interest accruing to the interest-bearing common trust account, minus any service charges or fees.

SECTION 4. For each interest-bearing common trust account, the broker shall direct the depository institution to do the following:

(a) Annually, before February 1, remit to the agency the total interest or dividends, minus service charges or fees, earned on the average daily balance in the interest-bearing common trust account during the 12 months ending on the previous December 31. A depository institution is not required to remit any amount if the total interest or dividends for that period is less than \$10 before any deduction for service charges or fees.

(b) When the interest remittance is sent, furnish to the agency and to the broker maintaining the interest-bearing common trust account a statement that includes the name of the broker for whose account the remittance is made, the rate of interest applied, the amount of service charges or fees deducted, if any, and the amount balance for the period that the statement covers.

SECTION 5. A depository institution:

(a) May not assess a service charge or fee that is due on an interest-bearing common trust account against any broker or, except as provided in subsection (c), against any other account, regardless of whether the same broker maintains the other account.

(b) May not assess a service charge or fee for an interest-bearing common trust account against the agency.

(c) May deduct a service charge or fee from the interest earned by an interest-bearing common trust account, and if a balance remains, may deduct the remaining charge or fee from the interest earned on any other interest-bearing common trust account maintained in that depository institution, before remitting interest to the agency.

(d) May not deduct a service charge or fee from the principal of an interest-bearing common trust account.

SECTION 6. A broker who deposits client funds in an interest-bearing common trust account in compliance with this section may not be held liable to the owner or beneficial owner of the client funds for damages due to compliance with this act. A broker, salesperson or time-share salesperson who deposits client funds in an interest-bearing common trust account in compliance with this section is not required to disclose alternative depository arrangements that could be made by the parties or to disclose that a deposit will be made under this act.

SECTION 7. This act does not require a broker to hold client funds or require a person to transfer client funds to a broker.

SECTION 8. With moneys available from the trust account created by this act, the agency shall make grants to organizations that provide shelter to homeless individuals or families.

SECTION 9. The agency shall ensure that grants awarded under section 8 are not used to supplant other state funds available for homeless prevention or services to homeless individuals or families.

SECTION 10. The agency shall make an annual report to the general assembly that summarizes how much money was received in the previous year and how the money was distributed.

SECTION 11. The agency shall promulgate rules establishing procedures and eligibility criteria for grants under this act.

SECTION 12. This act shall be codified in Title 13, Chapter 23, Tennessee Code Annotated.

SECTION 13. This act shall take effect July 1, 1995, the public welfare requiring it.